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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROBERT W. ZUCHOWSKI,

Plaintiff,

vs.

NCO FINANCIAL SYSTEMS, INC., a
Pennsylvania corporation,

Defendant.

Case No.: C07-03986 JW HRL

ANSWER OF NCO FINANCIAL
SYSTEMS, INC. TO COMPLAINT

Defendant, NCO Financial Systems, Inc. (hereinafter "NCO"), for itself alone,
responds to the complaint filed by plaintiff, ROBERT W. ZUCHOWSKI, as follows:

I. INTRODUCTION

1. NCO admits that plaintiff purports to seek redress for violations of the Fair
Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, and the Rosenthal
Fair Debt Collection Practices Act ("RFDCPA"), California Civil Code § 1788, *et seq.*,

1 as alleged in ¶ 1 of the Complaint, but denies violating the FDCPA or RFDCPA and
2 denies any liability or wrongdoing under the law.

3
4 II. JURISDICTION

5 2. NCO admits the allegations contained in ¶ 2 for jurisdictional purposes
6 only.

7
8 3. NCO denies the allegations contained in ¶ 3 of the Complaint.

9 III. VENUE

10 4. NCO admits the allegations contained in ¶ 4 for venue purposes only, but
11 specifically denies violating the FDCPA or RFDCPA and denies any liability or
12 wrongdoing under the law.

13
14 IV. INTRADISTRICT ASSIGNMENT

15 5. NCO lacks sufficient information to answer the allegations contained in ¶ 5,
16 and based thereon denies the same. NCO specifically denies violating the FDCPA or
17 RFDCPA and denies any liability or wrongdoing under the law.

18
19 V. PARTIES

20 6. NCO lacks sufficient information to answer the allegations contained in ¶ 6,
21 and based thereon denies the same.

22
23 7. NCO admits that when it acts as a debt collector as defined by 15 U.S.C. §
24 1692a(6) or Cal. Civil Code § 1788.2(c) its conduct may be governed by the applicable
25 provisions of those statutes. NCO further admits it engages in the business of debt
26 collection and that its principal business is debt collection related services. NCO further
27
28

1 admits the address of its principal place of business and its agent for service of process is
2 as stated in ¶ 7 of the Complaint. Except as expressly admitted, NCO denies the
3 remaining allegations contained in ¶ 7.
4

5 **VI. FACTUAL ALLEGATIONS**

6 8. NCO lacks sufficient information to answer the allegations contained in ¶ 8,
7 and based thereon denies the same.
8

9 9. NCO lacks sufficient information to answer the allegations contained in ¶ 9,
10 and based thereon denies the same.
11

12 10. NCO admits that an LVNV Funding LLC account in plaintiff's name was
13 placed for collection on August 9, 2006. Except as specifically admitted, NCO denies the
14 remaining allegations contained in ¶ 9.
15

16 11. NCO admits that its records reflect that a letter of the type attached as
17 Exhibit 1 was sent to plaintiff on or about August 12, 2006, the original document being
18 the best evidence of its contents. The remaining allegations in ¶ 11 call for a legal
19 conclusion and do not require an affirmative response. To the extent that an affirmative
20 response is required, NCO denies the remaining allegations in ¶ 11.
21

22 12. NCO admits that plaintiff purports to attach a copy of a collection letter
23 from NCO as Exhibit 1, the original document being the best evidence of its contents.
24 Except as specifically admitted, NCO denies the remaining allegations in ¶ 12.
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1 13. NCO admits that the letter attached as Exhibit 1 is dated August 12, 2006,
2 the original document being the best evidence of its contents. Except as specifically
3 admitted, NCO denies the remaining allegations in ¶ 13.
4

5 14. NCO admits the allegations contained in ¶ 14 of the Complaint.
6

7 15. NCO admits its records reflect that a message was left for plaintiff on
8 August 26, 2006. Except as specifically admitted, NCO lacks sufficient information to
9 answer the remaining allegations contained in ¶ 15 of the Complaint and based thereon
10 denies the same. To the extent an admissible recording exists, said recording is the best
11 evidence of its content.
12

13 16. NCO denies the allegations in ¶ 16 for lack of sufficient information to
14 justify a belief therein.
15

16 17. The allegations in ¶ 17 call for a legal conclusion and do not require an
17 affirmative response. To the extent that an affirmative response is required, NCO denies
18 the allegations in ¶ 17.
19

20 18. NCO denies the allegations in ¶ 18 for lack of sufficient information to
21 justify a belief therein.
22

23 19. NCO denies the allegations in ¶ 19 for lack of sufficient information to
24 justify a belief therein.
25

26 20. NCO admits its records reflect that a letter from plaintiff was received by
27 NCO on or about September 12, 2006, the original document being the best evidence of
28

1 its contents. Except as specifically admitted, NCO denies the remaining allegations
2 contained in ¶ 15 of the Complaint.
3

4 21. NCO admits that plaintiff purports to attach a copy of a dispute letter from
5 plaintiff as Exhibit 2, the original document being the best evidence of its contents.
6 Except as specifically admitted, NCO denies the remaining allegations in ¶ 21.
7

8 22. NCO admits its records reflect that a letter from plaintiff was received by
9 NCO on or about September 12, 2006, the original document being the best evidence of
10 its contents. Except as specifically admitted, NCO denies the remaining allegations
11 contained in ¶ 22 of the Complaint.
12

13 23. NCO admits that plaintiff purports to attach a USPS Tracking Report and
14 Certified Mail Return Receipt as Exhibit 3, the original document being the best evidence
15 of its contents. Except as specifically admitted, NCO denies the remaining allegations
16 contained in ¶ 23 of the Complaint.
17

18 24. NCO admits that its records reflect that a letter was sent to plaintiff on or
19 about September 14, 2007, the original document being the best evidence of its contents.
20 Except as specifically admitted, NCO denies the remaining allegations in ¶ 24.
21

22 25. NCO admits that its records reflect that a letter was sent to plaintiff on or
23 about September 14, 2007, the original document being the best evidence of its contents.
24 Except as specifically admitted, NCO denies the remaining allegations in ¶ 24.
25

26 26. NCO admits that its records reflect that a letter was sent to plaintiff on or
27 about September 14, 2007, the original document being the best evidence of its contents.
28

1 The remaining allegations in ¶ 26 call for a legal conclusion and do not require an
2 affirmative response. To the extent that an affirmative response is required, NCO denies
3 the allegations in ¶ 26.
4

5 27. NCO admits that plaintiff purports to attach a letter from NCO to plaintiff
6 as Exhibit 4, the original document being the best evidence of its contents. Except as
7 specifically admitted, NCO denies the allegations in ¶ 27.
8

9 28. NCO admits that the letter attached as Exhibit 4 is dated September 14,
10 2006. Except as specifically admitted, NCO denies the allegations in ¶ 28.
11

12 29. NCO denies the allegations in ¶ 29 for lack of sufficient information to
13 justify a belief therein.
14

15 **VII. CLAIMS**

16 30. NCO admits that Plaintiff purports to bring this action pursuant to the
17 FDCPA, but denies any violations thereof.

18 31. In reference to ¶ 31, NCO hereby incorporates by references its admissions
19 and denials as set forth in the above paragraphs.
20

21 32. The allegations in ¶ 32 call for a legal conclusion and do not require an
22 affirmative response. To the extent that an affirmative response is required, NCO denies
23 the allegations in ¶ 32.
24

25 33. NCO admits that when it acts as a debt collector as defined by 15 U.S.C. §
26 1692a(6), its debt collection efforts may be subject to regulation pursuant to the FDCPA.
27 Except as specifically admitted, NCO denies the allegations in ¶ 33.
28

1 34. The allegations in ¶ 34 call for a legal conclusion and do not require an
2 affirmative response. To the extent that an affirmative response is required, NCO denies
3 the allegations in ¶ 34.
4

5 35. NCO denies the allegations in ¶ 35, including subparts.

6 36. NCO denies the allegations in ¶ 36, including subparts.

7 37. NCO denies the allegations in ¶ 37.

8 38. NCO denies the allegations in ¶ 38 of the Complaint and further
9 specifically denies plaintiff is entitled to damages in any amount whatsoever.
10

11 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**
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13 39. NCO admits that Plaintiff purports to bring this action pursuant to the
14 RFDCPA but denies any violations thereof.

15 40. In reference to ¶ 40, NCO hereby incorporates by reference its admissions
16 and denials as set forth in the above paragraphs.
17

18 41. The allegations in ¶ 41 call for a legal conclusion and do not require an
19 affirmative response. To the extent that an affirmative response is required, NCO denies
20 the allegations in ¶ 41 for lack of sufficient information to justify a belief therein.
21

22 42. NCO admits that when it acts as a debt collector as defined by the Cal.
23 Civil Code § 1788.2(c), its debt collection efforts may be subject to regulation pursuant to
24 the RFDCPA. Except as specifically admitted, NCO denies the remaining allegations in
25 ¶ 42.
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1 43. The allegations in ¶ 43 call for a legal conclusion and do not require an
2 affirmative response. To the extent that an affirmative response is required, NCO denies
3 the allegations in ¶ 43 for lack of sufficient information to justify a belief therein.
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5 44. NCO denies the allegations in ¶ 44, including subparts.

6 45. NCO denies the allegations in ¶ 45, including subparts.

7 46. NCO denies the allegations in ¶ 46.

8 47. NCO denies the allegations in ¶ 47 of the Complaint and further
9 specifically denies plaintiff is entitled to damages in any amount whatsoever.
10

11 48. NCO denies the allegations in ¶ 48 of the Complaint and further
12 specifically denies plaintiff is entitled to damages in any amount whatsoever.
13

14 49. NCO denies the allegations in ¶ 49 of the Complaint and further
15 specifically denies plaintiff is entitled to damages in any amount whatsoever.
16

17 50. The allegations in ¶ 50 call for a legal conclusion and do not require an
18 affirmative defense. To the extent that an affirmative response is required, NCO denies
19 the allegations in ¶ 50.
20

21 **VIII. REQUEST FOR RELIEF**

22 51. NCO denies that plaintiff is entitled to any relief sought.

23 **FIRST AFFIRMATIVE DEFENSE**

24 The Complaint fails to state a claim upon which relief can be granted.
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